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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,495	06/28/2001	Denison W. Bollay	D-1535	8143
49147	7590	01/20/2006	EXAMINER	
OWEN L. LAMB			LE, KHANH H	
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PRESCOTT, AZ 86302-0386			PAPER NUMBER	

3622

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/895,495

Applicant(s)

BOLLAY, DENISON W.

Examiner

Khanh H. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05/04/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This Office Action is responsive to the Correspondence dated 05/04/2005. Claims 1-20 are pending with claims 1, 8 and 13 as independent. The previous art rejections are withdrawn. <sup>416</sup>

#### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. **Claims 13-15 are rejected under 35 U.S.C. 101 because the claimed inventions are directed to non-statutory subject matter.**

A "program" in independent claim 13 is software per se and non-statutory. Claims 14-15 are rejected as dependent on claim 13.

#### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claims 3, 7, 9-12, 14-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 3: it appears the “per-site data subset” should be from “said second cache” instead of “from said first cache”.. and vice versa regarding the per advertiser data subset. Appropriate correction is required.

As to claims 7 and 12, it is unclear, with the use of “may include” whether the following recited elements are actually claimed or not. Further it is unclear what “running totals of performance data, a price histogram that plots the number of ads served at a given price and a domain name moving “ticker tape” that displays, in real time, the domain names associated with visitors’ has to do with plotting indicia on a map, according to geographical locations of Internet visitors, and how it is done. In other words claims 7 and 12 are inconsistent with claims 1 and 12. Further it is unclear whether the “an applet” herein recited is one of the 2 applets earlier recited in the respective independent claims 1 and 12. In view of the substantial uncertainty presented, no prior art can be applied to these 2 claims.

Claims 9-12 should claim methods instead of systems as dependent of method claim 8. Appropriate correction is required.

Claims 14-15 should claim program products instead of methods as dependent of claim 13. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

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skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**7. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over \* WebSideStory Leapfrogs Existing Web Audience Measurement Tools With Launch of HitBox Enterprise, SAN DIEGO, CA -- August 3, 1999**

**<http://www.websidestory.com/news-events/press-releases/view-release.html?id=118>,**

**herein referred to as HITBOX 1 and \*\*E-Commerce Sites Embrace HitBox**

**Enterprise" , by Scott Clarke, May 23, 2000, [http://www.internetnews.com/dev-](http://www.internetnews.com/dev-news/article.php/10_377991)**

**[news/article.php/10\\_377991](http://www.internetnews.com/dev-news/article.php/10_377991), herein referred to as HITBOX 2 in view of**

**Parekh et al,US PG PUB- 20050021853 .**

As to claims 1, 2, 3, 4, 8, 9, 13, 16, 19, 20, HITBOX 1 discloses HitBOX Enterprise (enterprise.hitbox.com), a Web-based site analysis service tailored for businesses. which monitors all activity on a Web site, showing businesses exactly what is happening inside their sites in real time. HitBOX Site Analyzer provides accurate, graphic rich, user- friendly HTML- based reporting in real time, relieving businesses from the burden of installing and maintaining software, Web- based services such as the HitBOX Enterprise, are emerging as a dominant application on the Internet. HitBOX Enterprise tracks precise navigation courses taken through the site, including point of entry, course of interaction, and time and place of exit. Companies can also track unique visitors by day and month, impressions, browsers, plug- ins, screen colors, and monitor resolution. The service also reveals referring URLs, domains, search engines, and e-mail and/or newsgroups. Reports are updated in real-time and are published in graphic-rich, intuitive charts. Subscribers can log in remotely from anywhere to view and analyze site activity, history and projections.. For an even more graphical display of the statistics, a Windows viewer is available for download. HitBOX Enterprise Eliminates Complex Installation Process. The service includes an installation wizard that

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provides an automated, step-by- step process that seamlessly adds the necessary tracking codes to each page of the site. This reduces the complexity and time of installation to enable companies to efficiently begin tracking its visitors immediately.

Further, HITBOX 2 discloses

The HitBox Enterprise service provides detailed, real-time visitor statistics such as total page views, unique visitors, top paths, referring URLs, referring search engines, time spent on site, and returning visitors. This data enables businesses to enhance their visitor's experience, monitor the performance of marketing campaigns, verify their customer's interest in their products and services--all while improving the quality of customer service and technical support. The service doesn't require the typical up-front investment in software, hardware and IT resources.

thus

HitBox does not explicitly disclose break<sup>k</sup>ing down the data into per site or per advertiser data sets. However it is clear the many advertiser client of HitBox would have wanted ad effectiveness reports presented as to them and to their particular site or sites, thus it would have been obvious to one skilled in the art at the time the invention was made to break down the gathered data into per site or per advertiser data sets.

Together the 2 above articles will be herein referred to as HitBox, 1 and 2 respectively, and are considered one prior art reference.

Parekh discloses a method of determining of automatically determining the geographic location of the Internet user by analysis the user IP address, of the browsing route, and the geographic locations of at least some of the intermediate website hosts. A system collects the geographic information and allows web sites or other entities to request the

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geographic location of their visitors ( see at least abstract, Specifications at [0068], [0082], claim 37, Figs. 6-7 and associated text)

It would have been obvious to one skilled in the art at the time the invention was made to add to HitBox's method of graphically representing users viewing metrics in real-time, the geographic locations of site visitors gathered by the method of Parekh because some website owners may desire this information (See Parekh , Specifications at [0068] ) presented in efficient reports, "updated in real- time and published in graphic-rich, intuitive charts "(HitBox Enterprise).

Thus the combination of HitBox and Parekh at least implicitly discloses graphical representation of Internet users geographical locations to interested advertisers and site owners on their private pages.

As to data fed to an applet including a mapping component that displays each visitor's location on a map by plotting indicia at latitude/longitude coordinates on the map, HitBox discloses software to be downloaded for graphical representation of ad statistics to advertisers and site owners, implicitly, on their own webpages.

It would have been obvious to one skilled in the art to use caches, and applets as appropriate with the data manipulated as claimed to effect the method of HITBOX/PAREKH.

Further representing geographical data points using longitude and latitude coordinates of those points is well-known and thus obvious to add to HITBOX/PAREKH in order to show the graphical reports of the geographic locations of a distribution of users representing the ads effectiveness in real time as suggested by HITBOX/PAREKH.

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Further using indicia which vary in ) color ,size or intensity to denote a changing quantity is well known and thus obvious to add to HITBOX/PAREKH as one visual method to allow easy real-time depiction of changes in the number of Internet viewers.

Thus all the above teachings and known facts contribute to at least implicitly discloses all the limitations of claims 1, 2, 3, 4, 8, 9, 13, 16,19, and 20.

As to claims 5, 10, 14, 17,

Official Notice is taken that it is well-known to change an indicium in proportion to the number of a variable being graphically represented to show a change; thus it would have been obvious to one skilled in the art at the time the invention was made to use an indicium's being changed in proportion to the number of Internet visitors from the same geographical location to represent a real time change in the monitored variable as taught by HITBOX/PAREKH.

As to claims 6, 11, 15, 18, Official Notice is taken that it is well-known to represent variations of quantity as variation in at least one of color, size and intensity. Further it is well-known to plot locations in a map. Thus it would have been obvious to one skilled in the art at the time the invention was made to use, as an efficient graphical representation ,the indicium as a spot on the map that varies in color, size or intensity.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. \*\*\*

Glommen et al., US 6766370, discloses the HitBox method.



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Merriman et al, US 5948061 A discloses

Methods and apparatuses for targeting the delivery of advertisements over a network such as the Internet. Statistics are compiled on individual users and networks and the use of the advertisements is tracked. Merriman also discloses the use of standard database techniques to generate any desired reports with respect to tracking ad impressions. For example, reports showing the number of viewings and click throughs of various advertisements as well as reports showing the click through rates relative to certain matching criteria such as user-related geographic location, time zone, country, domain type, Internet service provider, etc...

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

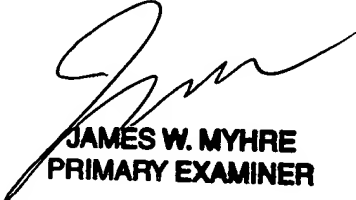
If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are **571-273-8300** for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600. For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314).

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
September 19, 2005

KHL

  
**JAMES W. MYHRE**  
**PRIMARY EXAMINER**